



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Ken Lawson, Treasurer
Hillsborough County Republican
Executive Committee

MAR 22 2010

Tampa, FL 33611

RE: MUR 6212

Dear Mr. Lawson:

On September 8, 2009, the Federal Election Commission notified the Hillsborough County Republican Executive Committee and then-Treasurer Paul M. Phillips, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On March 15, 2010, the Commission found, on the basis of information provided in the complaint and by you, that there is no reason to believe the Hillsborough County Republican Executive Committee and Paul M. Phillips, in his official capacity as Treasurer, violated 2 U.S.C. §§ 441b and 434(b). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Camilla Jackson Jones, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Shonkwiler", followed by a long horizontal flourish.

Mark D. Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Hillsborough County Republican Executive
Committee and Paul M. Phillips, as Treasurer

MUR: 6212

1 **I. INTRODUCTION**

2 This Complaint alleges that Lewis M. Oliver, III, Chairman of the Orange County
3 Republican Executive Committee ("OCREC" or the "Committee"), violated 2 U.S.C.
4 § 441b, a provision of the Federal Election Campaign Act of 1971, as amended (the
5 "Act"), by impermissibly mixing federal contributions with state donations in connection
6 with two transfers of \$10,000 between OCREC and Hillsborough County Republican
7 Executive Committee ("Hillsborough"). The Complaint also claims that Oliver either
8 failed to file, or filed false, disclosure reports regarding these and other transactions in
9 violation of 2 U.S.C. § 434(b).

10 Respondents Oliver, OCREC, and Hillsborough all deny the allegations in the
11 Complaint and point out that three Florida state agencies have already reviewed and
12 dismissed identical complaints.¹

13 As discussed below, the Commission concluded that the transfers of funds made
14 between the federal accounts of two affiliated state party committees, and a
15 corresponding transfer in the same amount between the non-federal accounts of the same

¹ The Complaint mirrors identical complaints filed with and dismissed by the Florida State Attorney's Office, Florida Department of Law Enforcement, Office of Executive Investigations, and the Florida Elections Commission. See OCREC Response Exh. A. The State Attorney's Office and FDLE dismissed the complaints for lack of sufficient evidence to indicate that a criminal violation had occurred. OCREC Response, Exh. B. The Florida Elections Commission dismissed the complaint and appeal as insufficient to authorize an investigation under Chapters 104, 106 and Section 105.071 of Florida statutes. OCREC Response, Exh. B.

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two committees, were permissible pursuant to 11 C.F.R. § 110.3(c)(1) and also were properly disclosed on their federal and state disclosure reports. Therefore, the Commission found no reason to believe that Hillsborough County Republican Executive Committee and Paul M. Phillips, in his official capacity as Treasurer, violated the Act.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

OCREC and Hillsborough are both county party organizations that are affiliated with the State Executive Committee of the Republican Party in Florida. OCREC is registered with the Commission as a Non-Qualified Party Committee. Hillsborough is registered as a Qualified Non-Party Committee. Lewis M. Oliver, III is chairman of the Orange County Republican Executive Committee.²

The allegations in the Complaint are based on two \$10,000 transfers that occurred on October 30, 2008. First, on October 30, 2008, OCREC made a \$10,000 transfer from its non-federal account to Hillsborough's non-federal account. On the same day, Hillsborough made a transfer of \$10,000 from its federal account to OCREC's federal account. Both Committees reported the federal-to-federal transfer on disclosure reports timely filed with the Commission. Further, both Committees reported the non-federal to non-federal transfers on their Florida disclosure reports. See OCREC and Hillsborough responses.

The Complaint alleges that the \$10,000 transfers between OCREC and Hillsborough took place from non-federal to federal accounts as a way to deposit

² According to the OCREC website, the duties of a County Executive Committee include: increasing Republican registration, seeking "qualified Republicans to become candidates for local, county, state and federal offices, making party nominations, conducting campaigns for Republican state or local candidates selected in the primary election, and raising and spending party funds for the maintenance of the county party organization."

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1 prohibited corporate funds into OCREC's federal account. Complaint at 1. The
2 Complaint also alleges that the OCREC federal account was a "secret" account that was
3 not properly disclosed to the membership. *Id.* at 1-2.

4 OCREC and Oliver contend that all transactions were discussed and approved by
5 the membership. OCREC Response at 4-6. Respondents further assert that OCREC
6 Treasurer, Ronald Bass, signed off on all transfers and properly disclosed them pursuant
7 to state and federal reporting requirements. *Id.* at 6-7. Respondents provide a copy of the
8 OCREC's State Disclosure report (Itemized Contribution Page) that reflects the \$10,000
9 transfer from OCREC's non-federal account to Hillsborough's non-federal account on
10 October 30, 2008, as well as a copy of the check for the funds. OCREC Response, Exhs.
11 D and E. Respondents also provide a copy of the disclosure report filed with the
12 Commission, which reflects the \$10,000 transfer from Hillsborough's federal account
13 into OCREC's federal account on October 30, 2008, as well as a copy of that check.
14 OCREC Response, Exhs. F, G and H.

15 A review of OCREC's Post-General Report filed with the Commission indicates
16 that it had \$7,361 in its federal account at the start of the reporting period (on October 15,
17 2008), it received \$14,167 (including the \$10,000 transfer) from Hillsborough and the
18 Republican Party of Florida, and made approximately \$13,361 in expenditures during the
19 reporting period. The expenditures are disclosed on Schedule H4 (Disbursement for
20 Allocated Federal/Non-federal Activity) as 100% allocable to "federal administrative
21 activity" with the purpose described as expenses for "rent, phones, utilities." There were
22 no expenditures for "federal election activity" disclosed for that reporting period.

B. Analysis

1. Account Transfers

Based on the available information, the Commission concluded that the transfer of funds made between the affiliated committees, OCREC and Hillsborough, were permissible pursuant to 11 C.F.R. § 110.3(c)(1), and, therefore did not result in prohibited contributions as alleged in the Complaint.

The Act provides that state, district, and local political committees that receive or make contributions in excess of \$1,000 during a calendar year are considered to be "political committees," subject to the FECA's contribution limitations, prohibitions and reporting requirements. *See* 2 U.S.C. § 434(4)(c). State, district, and local committees that are established, maintained or controlled by the same state or regional association are considered to be "affiliated" under the Act, 11 C.F.R. § 110.3(a)(1)(ii), and are permitted to transfer funds between their respective separate segregated accounts. 11 C.F.R. § 110.3(c)(1). While state, local, and county party committees may raise funds on behalf of state and federal candidates, they are prohibited from using corporate funds to pay for any expenditure in connection with a federal election. 2 U.S.C. § 441b.

The Act and Commission regulations allow two affiliated county committees, such as OCREC and Hillsborough, to transfer funds between their respective federal accounts and between their respective non-federal accounts. *See* 2 U.S.C. § 441a(a)(4); 11 C.F.R. § 110.3(c)(1). Thus, OCREC's \$10,000 transfer from its non-federal account into Hillsborough's non-federal account, as well as Hillsborough's transfer of \$10,000 from its federal account to OCREC's federal account, were legally permissible and the

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Commission determined there is no reason to believe that either committee violated 2 U.S.C. § 441b.

2. Disclosure Allegations

Contrary to the assertion in the Complaint, OCREC and Hillsborough properly disclosed the details of the transfers on its federal and state disclosure reports.

Section 434(b) of the Act requires a political committee to file disclosure reports for the reporting period and calendar year, which include "the total amount of all receipts" and "transfers from affiliated committees." 2 U.S.C. § 434 (b)(2)(D) & (F). OCREC disclosed the \$10,000 transfer received from Hillsborough in its 2008 Post-General Report. OCREC Response, Exh. D. The \$10,000 transfer to OCREC is also disclosed by Hillsborough in its 2008 Post-General Report. OCREC Response, Exh. F. Thus, the Commission determined there is no reason to believe that Mr. Oliver, OCREC or Hillsborough violated 2 U.S.C. § 434(b).

Based on the available information, the Commission found no reason to believe that Hillsborough County Republican Executive Committee and Paul M. Phillips, in his official capacity as Treasurer, violated 2 U.S.C. §§ 441b and 434(b).